

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

MARK A. MISIAK,

Petitioner,

v.

RON VAN BOENING,

Respondent.

C09-0716-JCC

**ORDER**

This matter comes before the Court on the report and recommendation of Magistrate Judge James P. Donohue. (Dkt. No. 26). The Court has also reviewed Petitioner's objections to the report and recommendation. (Dkt. No. 28). The Court hereby ADOPTS the report and recommendation, and ORDERS as follows:

1. The Court DISMISSES Petitioner's petition for writ of habeas corpus with prejudice. This dismissal counts as a strike for the purposes of 28 U.S.C. § 1915(g).
2. The Court STRIKES Petitioner's pending motion for an evidentiary hearing (Dkt. No. 27) as moot.

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SO ORDERED this 5th day of January, 2010.

A handwritten signature in black ink, appearing to read "John C. Coughenour", written over a horizontal line.

JOHN C. COUGHENOUR  
United States District Judge